THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.28222 OF 2005

DATED:3.1.2006

Between:

Kopparthi Satyanarayana

…Petitioner

And

The Kakinada Municipal Corporation

Rep. by Commissioner,

Kakinada, East Godavari District

…Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.28222 OF 2005

ORDER:

The petitioner is resident of Bhanugudi center in Kakinada Town. He is owner of about 422 Sq.yards in T.S.No.149/1, which he purchased under registered sale deed dt.18.1.1965 along with his mother. In a family partition he got a portion of the property along with structure thereon which he remodelled after obtaining necessary permission from the then Kakinada Municipality. It is alleged that on 6.12.1999 the revenue officials demolished one shop and on 17.12.1999 other six shops were demolished. The petitioner therefore filed a suit being O.S.No.231 of 2000 on the file of the Court of I Additional Senior Civil Judge, Kakinada, for declaration of title and permanent injunction. The suit was decreed on 18.7.2005 and decree was also passed for damages in a sum of Rs.1,00,000/-. It appears that a portion of the

petitioner's property admeasuring 72 Sq.yards is vacant and taking advantage of the same, the respondent is allegedly making attempts to lay road without due process of law. Apprehending coercive action by the respondent, present Writ Petition is filed.

Heard the learned counsel for the petitioner and the learned Standing Counsel for Kakinada Municipal Corporation.

This Court in **P.Lakshmana Rao v. Executive Officer** and **M.Madhavi Latha v. Rajendranagar Municipality** and **Srichand Rohra v. Commissioner, Municipal Corporation of Hyderabad** has held that whenever a private property is required for laying road, widening existing road or for any public purpose, public authorities - be it local body, Corporation or Government - cannot highhandedly dispossess the petitioner or owners of the land. They have to necessarily follow the procedure either by negotiating with the owners to part with their land for adequate compensation and or, in case the owners are not willing to part with the possession on their own, the authorities have to initiate action under the provisions of the Land Acquisition Act, 1894, or A.P. Municipalities Act, 1965 or Hyderabad Municipal Corporations Act, 1955, (HMC Act) as applicable to other Corporations in the State. In view of this legal position, the Writ Petition is disposed of observing that unless and until the respondent Corporation initiates action either under Section 146 or Section 147 of the HMC Act, the respondent Corporation cannot interfere with the possession of the petitioner, nor it can demolish any structures belonging to the petitioner.

The Writ Petition with the above observations is accordingly disposed of.

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(V.V.S.RAO, J)

3.1.2006

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